

10/19/65
JEE Comments

MSA-S-1829-4905

CE 646-05
VAR

Tunmillo, Peter, Jr.
3178

Feb 11/2

Robert L. Ehrlich, Jr.
Governor

Michael S. Steele
Lt. Governor



Martin G. Madden
Chairman

Ren Serey
Executive Director

**STATE OF MARYLAND
CRITICAL AREA COMMISSION
CHESAPEAKE AND ATLANTIC COASTAL BAYS**

1804 West Street, Suite 100, Annapolis, Maryland 21401
(410) 260-3460 Fax: (410) 974-5338
www.dnr.state.md.us/criticalarea/

October 19, 2005

Mr. Cliff Houston
Office of Planning & Zoning
129 E Main Street, Room 300
Elkton, Maryland 21921

RE: Variance #3178
Peter Tummillo, Jr.

Dear Mr. Houston:

I have reviewed the variance application for the Tummillo property. The applicants are requesting a variance to build four dwellings in the 110-foot Buffer on four lots. The four lots are currently developed with one dwelling, a carport, two sheds, and two concrete pads. The lots are in the LDA and are designated Buffer exempt. No site plan was submitted with the application showing the proposed dwellings in regards to their location or size; a site plan was included that shows an existing dwelling across Tract 1, Parcel 1 and Tract 2, Parcel 1, a carport on Tract 1, Parcel 1 and Tract 1, Parcel 2, two sheds on Tract 2, Parcel, a concrete pad on Tract 2, Parcel 2, and another concrete pad on Tract 1, Parcel 2.

Without a site plan showing the proposed development, it is impossible to determine whether the proposal can meet the County's Buffer exemption provisions, impervious surface limits, and the variance standards. We strongly urge the Board to require the applicant to provide all pertinent information prior to the hearing with sufficient time for this office to review the material and provide written recommendations.

We also recommend the Board consider the following cases from the Maryland Court of Appeals: *Friends of the Ridge v. BGE* [352 Md 645 (1999)] and *David H. Remes v. Montgomery County, Maryland et al*, 2005. These cases address the doctrine of merger on individual adjacent lots in common use, which appears to be applicable in this situation. I've enclosed the *Remes* case, which I discovered after we talked last week.

Mr. Houston
October 19, 2005
Page Two

It has come to our attention that the Buffer on the property was recently cleared. (See attached photos.) I have talked to Mr. Joe Johnson in your office and he was not aware of any approvals to clear Buffer vegetation on site. No variances should be granted before this violation has been addressed.

Thank you for the opportunity to comment. Please include this letter in the file, and submit it as part of the record for the variance. Please notify the Commission in writing of the decision made in this variance.

Sincerely,

A handwritten signature in dark ink, appearing to read "Regina A. Esslinger", with a long, sweeping horizontal line extending to the right.

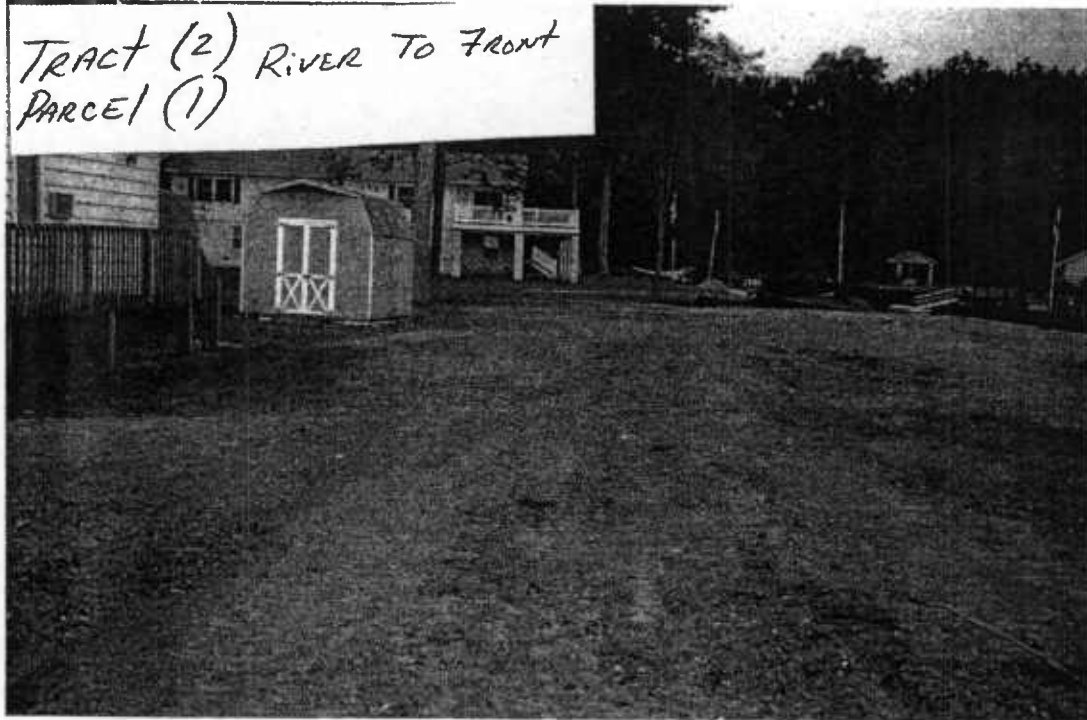
Regina A. Esslinger, Chief
Project Evaluation Division

Enclosures

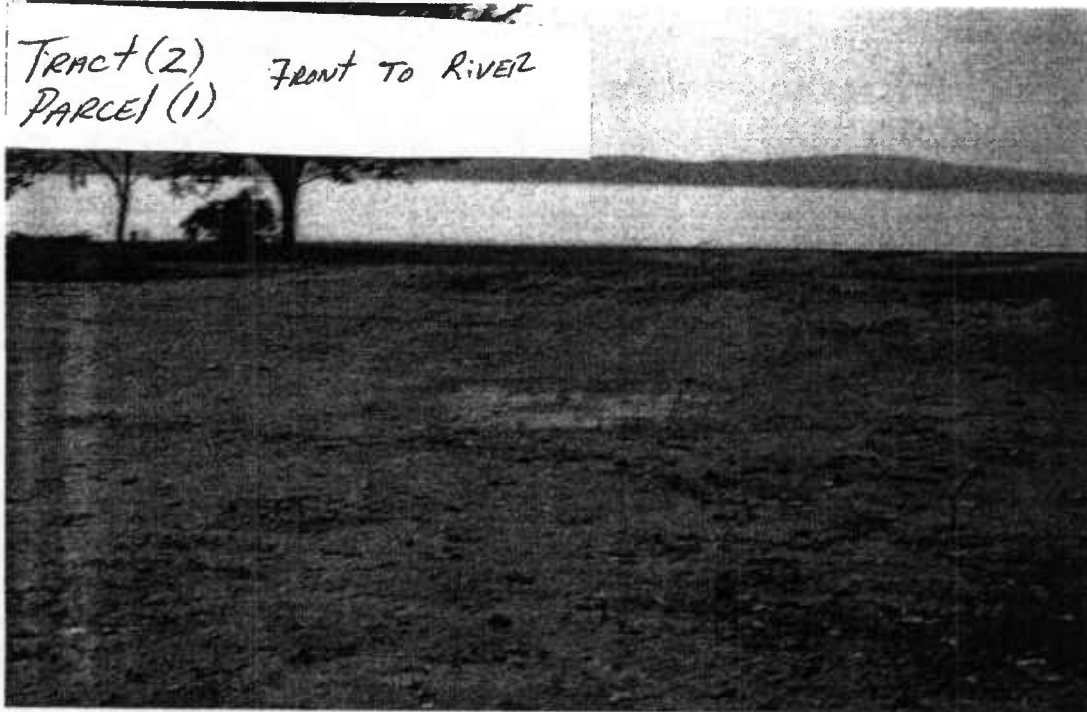
RAE/jjd

cc: Joe Johnson
CE646-05

TRACT (2) RIVER TO FRONT
PARCEL (1)



TRACT (2) FRONT TO RIVER
PARCEL (1)



161 Greenbank Road

October 11, 2005

Ms. Regina Eslynger
Critical Area Commission

Enclosed are pictures of property belonging to Peter and Diane Tumillo. Tract and Parcel numbers are on the pictures with views from and to the river. I am also enclosing the listing from the Real Estate paper. Please note there are (4) lots total I have pictures of, but only (3) lots are for sale.

Listing the lots for sale without obtaining a variance first seems out of order.

Looking at Tract (2), Parcel (1) from the real estate clip, you can see how wooded this area was. Look at the picture of the same tract/parcel and note this is no longer the case. Approximately 3 weeks ago, Mr. Tumillo had an excavator remove the trees and stumps in preparation for building. Jim Reynolds, who lives one lot away, has been trying for almost 6 months to get permission to remove (1) diseased tree and still has not obtained it. Obviously Mr. Tumillo has no regard for Critical Bay policy.

I have spoken on numerous occasions the surveyor, Mr. Hopkins from Hopkins Engineering when he was working for Mr. Tumillo on establishing the lot lines. He told me that he could not get the lot lines to close per the deed and also couldn't the square footage to match with what was stated on the deed. (This is a common problem in the community due to the age of the subdivision)

Mr. Hopkins set a pin at our property line, and Mr. Tumillo took it upon himself to later move it @ 3 feet into my property. If he is granted permission the build, the set back is only 5 feet. This does not allow much room for error.

It should be noted there is not even sewer to this property and the lots are too small to have a septic system installed. I don't know what is being disclosed about the property, but anyone who purchases the property, until sewer service is installed, will be unable to build a thing.

I hope these pictures help to clarify the impact of what Mr. Tumillo is doing with this property. If you are in the area, please take a look for yourself.

Sincere Regards,


Jeff Ritter

126 Greenbank Rd
Perryville, MD 21903
(410) 287-0520
410 287-0590-fax

RECEIVED

OCT 13 2005

CRITICAL AREA COMMISSION

Law Offices
CLOWER, PARRACK & SEAMAN

226 East Main Street
Elkton, Maryland 21921

(410) 398-7400
Fax (410) 398-6010

Dennis S. Clower
David H. Parrack
Perry J. Seaman

October 25, 2005

3178
Withdrawn
per letter
NO
opinion

HAND DELIVERED

Mr. Clifford I. Houston
Zoning Administrator
Office of Planning and Zoning
Cecil County Courthouse
129 E. Main Street, Room 300
Elkton, MD 21921

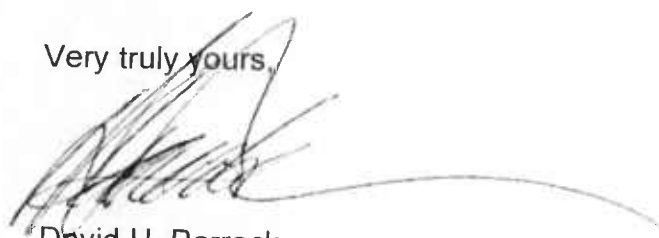
RE: Application of Peter F. Tummillo, Jr.
Your file 3178

Dear Cliff:

As we have discussed, the Tummillo plans for construction within a Critical Area buffer exemption area will not result in any structures extending further toward the water than existing structures on adjacent properties. Accordingly, we hereby withdraw our request for a variance.

Thank you for your kind assistance in this matter.

Very truly yours,



David H. Parrack

DHP/kd

cc: Mr. Peter F. Tummillo, Jr.

CHESAPEAKE BAY CRITICAL AREA COMMISSION1804 West Street, Suite 100
Annapolis, MD 21401Date: Sept. 29, 2005Local Case No: 3178Jurisdiction: Cecil County**NOTIFICATION OF PROJECT APPLICATION**Name of Project: Peter F. and Diane M. Tummillo, Jr.

(site or subdivision name, other)

Project location: 161 Greenbank Road, Perryville, MD 21903Tax Map: 35Block: 10Parcel: 154,280,153 & 276Lot: 4,3,5 & 28

TYPE OF APPLICATION Select all applicable	TYPE OF PROJECT Select all applicable	CURRENT USE Select all applicable
<input type="checkbox"/> Subdivison	<input checked="" type="checkbox"/> Residential	<input type="checkbox"/> Commercial
<input type="checkbox"/> Site Plan	<input type="checkbox"/> Commercial	<input checked="" type="checkbox"/> Residential
<input checked="" type="checkbox"/> Variance	<input type="checkbox"/> Water Dependent	<input type="checkbox"/> Agricultural
<input type="checkbox"/> Buffer <input type="checkbox"/> Slope	<input type="checkbox"/> Facility / Pier / Marina	<input type="checkbox"/> Forest / Buffer / Wdln
<input type="checkbox"/> ImpSurf <input type="checkbox"/> Other	<input type="checkbox"/> Industrial	<input type="checkbox"/> Industrial
<input type="checkbox"/> Special Exception	<input type="checkbox"/> Mixed Use	<input type="checkbox"/> Institutional
<input type="checkbox"/> Conditional Use	<input type="checkbox"/> Redevelopment	<input type="checkbox"/> Open Space/Rec
<input type="checkbox"/> Rezoning	<input type="checkbox"/> Shore Erosion Prot.	<input type="checkbox"/> Vacant
<input type="checkbox"/> Grading Permit	<input type="checkbox"/> Agriculture	<input type="checkbox"/> Water Dependent
<input type="checkbox"/> Building Permit	<input type="checkbox"/> Other: <u>Boat Storage</u>	<input type="checkbox"/> Facility / Pier / Marina
<input type="checkbox"/> Intrafamily	<input type="checkbox"/> e.g. PUD	<input type="checkbox"/> Other: <u>Boat Storage</u>
<input type="checkbox"/> Growth Allocation		
<input type="checkbox"/> Other:		

Describe Proposed Use of Project Site: See attached application:

SITE INVENTORY OF AREA ONLY IN THE CRITICAL AREA	
TOTAL ACRES IN CRITICAL AREA:	87.83 Total Acres
<input type="checkbox"/> IDA acres	<input type="checkbox"/> Area Disturbed
<input type="checkbox"/> LDA acres	<input type="checkbox"/> No. of Lots Created
<input type="checkbox"/> RCA acres	<input type="checkbox"/> No. of Dwelling Units
<input type="checkbox"/> Agricultural Land	<input type="checkbox"/> Forest/Woodland/Trees Created
<input type="checkbox"/> Existing Forest/Woodland/Trees	<input type="checkbox"/> Existing Impervious Surface
<input type="checkbox"/> Forest/Woodland/Trees Created	
<input type="checkbox"/> Proposed Impervious Surface	<input type="checkbox"/> Total Impervious Surface
GROWTH ALLOCATION DEDUCTED:	
RCA to LDA	RCA to IDA
	LDA to IDA

Local Jurisdiction Contacts: **Joseph Johnson, Resource Inspector and/or Zoning Administrator**
 Office of Planning and Zoning, 129 E. Main St., Room 300, Elkton, MD 21921
 Phone: 410-996-5225

Commission response required by: Oct. 7, 2005 Bd. of Appeals Hearing: Oct. 25, 2005

BOARD OF APPEALS APPLICATION
CECIL COUNTY, MARYLAND

MEET. MONTH: Oct. 2005
FILE NO: 3178

THIS REQUEST IS FOR:

SPECIAL EXCEPTIONS RENEWAL ()
SPECIAL EXCEPTION ()
VARIANCE (X)
APPEAL ()

DATE FILED: 9-15-05
AMOUNT PD: \$200.00
ACCEPTED BY: G. Emery

CK # 20109
9-14-05

A. APPLICANT INFORMATION

mail
to

PETER F. TUMMILLO, JR. and DIANE M. TUMMILLO
APPLICANT NAME - please print clearly

10 White Horse Lane
ADDRESS CITY STATE ZIP CODE
Spring City PA 19475
APPLICANT SIGNATURE 610 458 7756
PHONE NUMBER

B. PROPERTY OWNER INFORMATION

SAME AS APPLICANT

PROPERTY OWNER NAME - PLEASE PRINT CLEARLY

ADDRESS CITY STATE ZIP CODE
PROPERTY OWNER SIGNATURE PHONE NUMBER

C. PROPERTY INFORMATION

#1: 161 Greenbank Road, Perryville, MD 21903 5th E.D. 05-051584
#2: Greenbank Road, Perryville, MD 21903 5th E.D. 05-051592
#3: 161 Greenbank Road, Perryville, MD 21903 5th E.D. 05-022983
#4: 161 Greenbank Road, Perryville, MD 21903 5th E.D. 05-013151
PROPERTY ADDRESS ELECTION DIST. ACCT. NUMBER
All properties: 35 10 #1: 154 #2: 280 #3: 153 #4: 276 #1: 4 #2: 3 #3: 5 #4: 28 #1: 1549 A #2: 3213 A
TAX MAP# BLOCK PARCEL LOT# #ACRES ZONE
Total 87.83
SR

D. PURPOSE OF APPLICATION - Indicate reasons why this application should be granted.
(attach separate sheet if necessary)

Applicants seek to develop four (4) lots of record in a buffer exemption area. Applicants will comply with development rules and offsetting requirements for the property involved.

E. On an attached sheet, PLEASE submit a sketch of the property indicating the proposed project. Show distances from the front, side and rear property lines and the dimensions of the project.

F. LAND USE DESIGNATION

Is property in the Critical Area? X YES NO
If yes, Pertinent provisions provision of the Chesapeake Bay Critical Area Program: Buffer exemption
Is property in the 100 year Floodplain? X YES NO
Is property an Agricultural Preservation District? YES X NO

If property is located in the Critical Area, all provisions and requirements must be met as outlined in Article XVII, Part I, II & III of the Zoning Ordinance.

G. PROVISIONS OF ZONING ORDINANCE: Article XI, Section 194, et seq.

H. SPECIAL EXCEPTION RENEWAL - PREVIOUS FILE NO. & CONDITIONS FOR APPROVAL:

I. SPECIAL EXCEPTION FOR MANUFACTURED HOME - Please fill out the following information:

Will unit be visible from the road? If yes, distance: _____
Will unit be visible from adjoining properties? If yes, distance: _____
Distance to nearest manufactured home: _____
Number of units on property at present time: _____
Size/Model/Year of Unit: _____

mail
to
PLEASE NOTE:

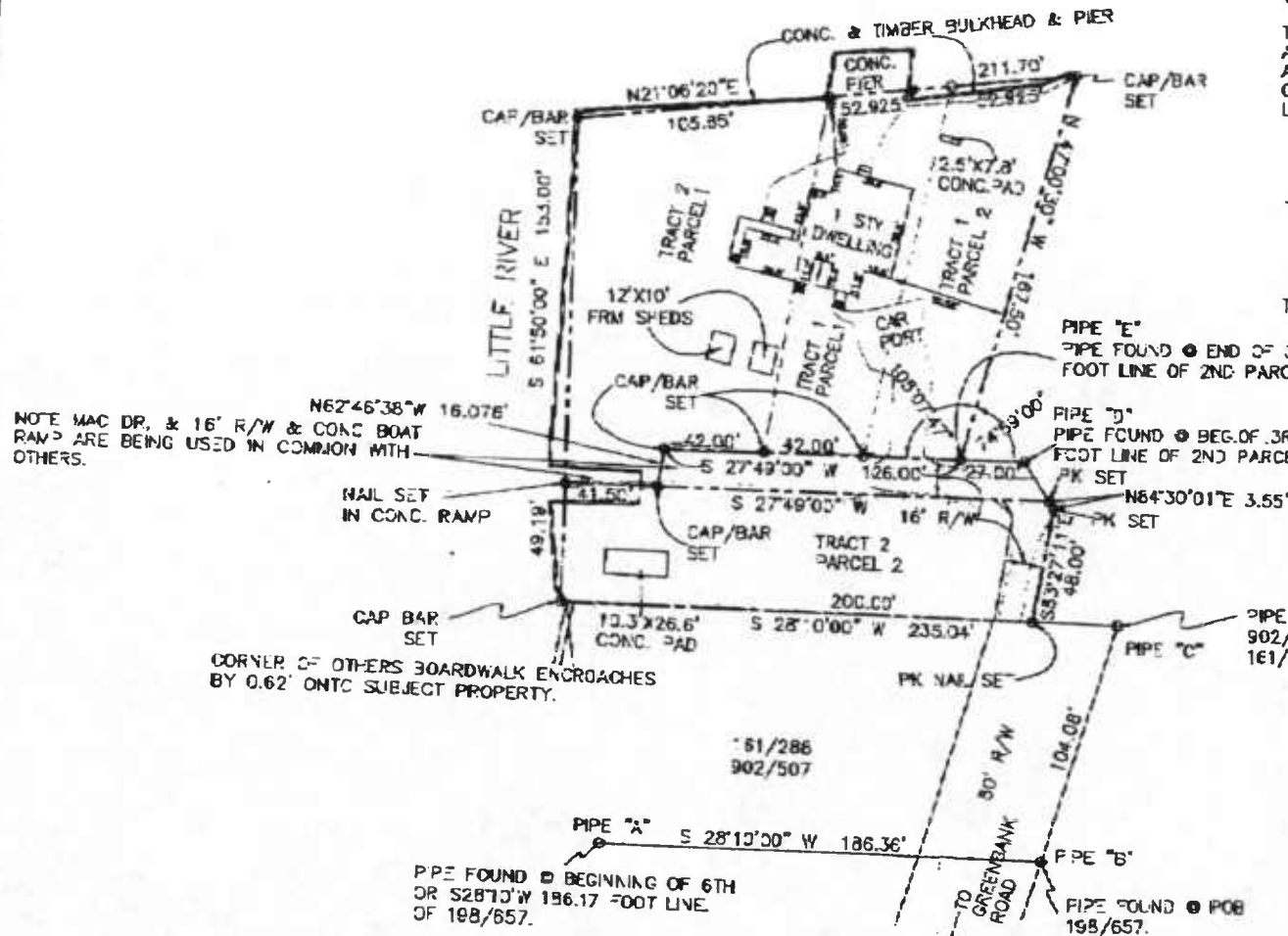
The applicant is represented by David H. Parrack, Esquire. Please send all notices to Clower, Parrack & Seaman, 226 East Main Street, Elkton, MD 21921

NORTH EAST RIVER

PIPES A-E WERE HELD AS CORRECT AND WERE USED AS THE BASIS FOR THE BOUNDARY ESTABLISHMENT SHOWN HEREON. THE BEARINGS SHOWN HEREON ARE BASED ON THOSE GIVEN IN THE DEED FOR THE SUBJECT PROPERTY.

THESE LOTS ARE NONCONFORMING INsofar AS ZONING REQUIREMENTS ARE CONCERNED. ALL FUTURE IMPROVEMENTS MUST BE IN COMPLIANCE WITH FEDERAL STATE AND LOCAL REGULATIONS.

TRACT	PARCEL	SQ. FEET	ACRES
1	1	718.20	0.163
2	2	7377.98	0.170
2	2	14369.72	0.323
TOTAL	2	10143.99	0.233
		38709.89	0.889



HOPKINS ENGINEERING
3653 HARMONY CHURCH ROAD HAVRE DE GRACE, MD 21078
PHONE 410-879-6364 FAX 410-893-5185

BOUNDARY SURVEY #161 GREENBANK ROAD CECIL COUNTY MARYLAND		
DRAWN L.C.H.	DATE 08/14/06	DEED REF: 1271/250
APPROVED L.C.H.	DATE 8/14/06	
SCALE 1" = 50'	SHEET 1 OF 1	PROJECT NO.